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Board of Governors
Oregon State Bar
P.O. Box 231935
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Regarding: **Improvements to the Client Security Fund ("CSF")**

To the Oregon State Bar Board of Governors:

I recommend immediate improvements to the Client Security Fund ("CSF") to protect the public.

I. Raise CSF coverage to \$100,000. The passage of time has eroded CSF protection. In 1993 the CSF coverage limit was raised from \$25,000 to \$50,000, where it stands now. Adjusted for inflation, \$50,000 in 1993 would be worth nearly \$87,000 today.

As of January 31, 2018 (the most recent CSF spreadsheet that I could find), CSF had pending \$810,205.03 in claims against funds available of \$1,396,941.00, leaving a fund excess of \$586,735.97. That excess will likely fade away, if it hasn't already.

Of the \$810,205.03 in pending claims, about \$300,000 relate to a former Corvallis lawyer Pamela S. Hediger. An additional \$120,000 relate to former Portland lawyer Lori E. Deveny. Four Hediger claims exceed the current \$50,000 cap by a total of about \$131,000.¹ Two Deveny claims exceed the cap, by total of about \$18,000.²

How much CSF may have to pay on pending claims is not known, but CSF claims against a particular lawyer have a history of coming in over several years. It would be reasonable to expect additional claims related to these two former lawyers.

¹ Excess Hediger claims: 2018-18 (McNeal, seeking \$111,520.94); 2018-24 (Jordan, seeking \$94,664.22); 2018-31 (Hart, seeking \$70,000); 2018-23 (Hilliard Estate, seeking \$54,607.35).

² Excess Deveny claims: 2017-45 (Brown, seeking \$66,667); 2018-10 (Clausen, seeking \$51,666).

People who are the victims of fraud in 2018 deserve a 2018 level of protection. The CSF limit must be raised immediately to \$100,000 per claim. According to the 2014-2016 ABA survey, many other jurisdictions have a cap of \$100,000 or more, including the State of Washington (\$150,000), California (\$100,000) and also the Canadian province of British Columbia (\$300,000).

II. Better protection of vulnerable client populations. Review of the claims paid by CSF from 2001 to 2018¹ years of 2010 through 2018 shows a pattern of exploitation of vulnerable client populations: immigrants, injured persons, incarcerated persons, and elderly and mentally challenged people. The bar association must do more to empower these populations to protect themselves. Suggested steps include:

A. Recruit volunteers to help with claims forms. Reimbursement from CSF is not automatic. It may be difficult for persons, particularly those in vulnerable categories, to timely present their claim to CSF. The bar should solicit volunteers from its members to provide pro bono assistance to CSF claimants. The Bar's Lawyer Referral Service should set up a panel for such volunteers, and the existence of this pro bono panel, and the contact information, should be printed on all claims forms.

B. Print claim forms in languages other than English. The CSF claim form should be available in languages other than English. As of 2016, at least ten other states provide CSF claims forms in languages other than English, with Spanish being the principal additional language.²

C. Outreach to immigrants. Regarding the numerous McBride CSF claims of a few years back, the Bar stated that "a pattern of conduct was revealed suggesting that McBride knowingly offered false hope to vulnerable immigration clients in order to induce them to retain the services of his firm."³

¹ Exclusive of 2004 for which the CSF annual report could not be located on-line.

² American Bar Association, *2014-2016 Survey of Lawyers' Fund for Client Protection, Section 1, Fund Administration*, at 7-8 ("ABA Survey"), available at: https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/2014_16_survey_of_lawyer_s_funds_for_client_protection_final.pdf

³ Stevens, Sylvia, "Client Security Funds: 2012 Annual Report", *Oregon State Bar Bulletin* (Feb-Mar 2013), available at: <https://www.osbar.org/publications/bulletin/13febmar/barcounsel.html>

1. Immigration service organizations. The Bar should have a CSF outreach program to the lawyers who work with immigrants, and many immigrant service organizations, such as Catholic Charities Legal Services, Sponsors Organized to Assist Refugees ("SOAR"), and Immigrant and Refugee Community Organization ("IRCO").

2. Coordination with federal authorities. Lawyers who practice before the immigration court and USCIS are also subject to discipline in addition to regulation by state bar associations. Contact should be made with these agencies regarding the protections available from CSF.

III. Additional study. There may well be additional steps that can be taken to better protect the public, and specifically, the more vulnerable people who seem to be consistently the victim of lawyer dishonesty.

For example, it may be possible to lower the CSF exposure by encouraging lawyers to purchase fidelity bonds, and perhaps require disclosure to potential clients whether they were covered by a fidelity bond, but the details would require careful study before any serious proposal could be made.

CSF staff and volunteers, and lawyers and community service groups, should be invited to provide comments and recommendations on this to the Board of Governors.

Very truly yours,



Michael T. Purcell